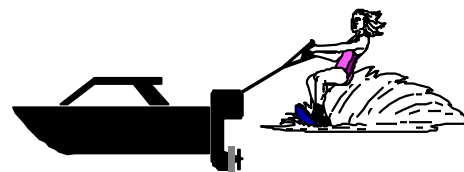


# Chapter 6 Marine Vessels and Personal Watercraft (PWC)



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## Part A—An Overview of the Marine Safety Act

### 6.1 Introduction

\*For simplicity purposes, this statute will be referred to throughout this chapter as the Marine Safety Act, rather than Part 801 of the Natural Resources and Environmental Protection Act.

The Marine Safety Act\* is codified as Part 801 of the Natural Resources and Environmental Protection Act (NREPA). MCL 324.80101 et seq; MSA 13A.80101 et seq. It was enacted in 1995 as a replacement for the previous Marine Safety Act, which had been codified as MCL 281.1001 et seq; MSA 18.1287(1) et seq. *See* MCL 324.90106; MSA 13A.90106. All of the provisions that had been in the previous Marine Safety Act were renumbered and then codified as Part 801 of the NREPA. The Legislature made no substantive changes to the contents of those provisions. *See* MCL 324.107; MSA 13A.107, of the NREPA which states:

“It is the intention of the legislature that editorial changes in the language of statutes codified as parts within this act not be construed as changes to the meanings of those statutes.”

The Marine Safety Act requires that most vessels being operated on the waters of this state have a certificate of number assigned to that vessel by the Secretary of State. *See* MCL 324.80122 to .80124; MSA 13A.80122 to .80124. The identifying number and a decal must be displayed on each side of the forward half of the vessel. MCL 324.80122(1); MSA 13A.80122(1). The number and decal are referred to as the “registration number” and the “registration decal.”\*

\*See section 6.10, *infra* for a more detailed discussion of the registration and decal requirements of the Marine Safety Act.

In addition, Part 803 of NREPA requires that vessels 20 feet or longer in length, and those powered by an in-board/outboard or in-board engine must be titled through the Secretary of State. *See* MCL 324.80303; MSA 13A.80303 and MCL 324.80304; MSA 13A.80304. A person who violates section 80304 is guilty of a misdemeanor punishable by a fine of not more than \$100 and/or up to 90 days in jail. MCL 324.80322; MSA 13A.80322.

The fees charged for certificates of numbers are credited to the state waterways fund, the harbor development fund, and the marine safety fund. MCL 324.80115(1); MSA 13A.80115(1). These funds, in turn, are used to pay for marine safety education programs; for the construction, operation, and maintenance of recreational boating facilities and harbors and marinas; and for the purchase of equipment and personnel to enforce the requirements of the Marine Safety Act. *See* MCL 324.80115(2); MSA 13A.80115(2).

The offenses established by the Marine Safety Act can be grouped into the following thirteen categories:

- Certificate of number and decal requirements.
- Equipment requirements.

- Operation of vessels by children less than 16 years of age.
- Right-of-way requirements and operation of vessels in restricted areas.
- Speed requirements.
- Reckless operation of vessels.
- Rocking and jostling of vessels.
- Water-skiing requirements.
- Underwater diving requirements.
- Failure to report accidents or give assistance at accidents.
- Felonious operation of vessels.
- Operation of vessels while intoxicated or impaired.
- Operation of vessels after operating privileges have been suspended.

Each of these categories of offenses is discussed in more detail in Part B of this chapter.

**DNR Note:** The Marine Safety Act does not contain provisions for personal watercraft (PWC). In 1998, the Legislature repealed former MCL 324.80143; MSA 13A.80143, which had contained the requirements for PWC. Former section .80143 was then replaced by the Personal Watercraft Safety Act, MCL 281.1401 et. seq.; MSA 18.1287(401) et. seq., effective March 23, 1999.

MCL 281.1445; MSA 18.1287(445), of the Personal Watercraft Safety Act states that, except as otherwise provided, the operator of a personal watercraft must comply with the requirements of the Marine Safety Act. The prohibitions and sanctions for operating a vessel while under the influence of alcohol or drugs contained in the Marine Safety Act apply to the operators of personal watercraft. Operators of personal watercraft are also required to comply with local watercraft controls established under the Marine Safety Act. However, in construing the two statutes together, if conduct is proscribed by the Personal Watercraft Safety act and similarly by the Marine Safety Act, the violation cited would be the violation of the Personal Watercraft Safety Act against the operator of a personal watercraft.

See Part C of this chapter for the special requirements for PWC, as contained in the Personal Watercraft Safety Act.

## 6.2 Definitions in Marine Safety Act

- “‘Vessel’ means every description of watercraft used or capable of being used as a means of transportation in water.” MCL 324.80104(q); MSA 13A.80104(q).
- “‘Waters of this state’ means any waters within the territorial limits of this state, and includes those waters of the Great Lakes that are under the jurisdiction of this state.” MCL 324.80104(r); MSA 13A.80104(r).
- “‘Peace officer’ means any of the following:

(i)A sheriff.

(ii)A sheriff's deputy.

(iii)A deputy who is authorized by a sheriff to enforce this part and who has satisfactorily completed at least 40 hours of law enforcement training, including training specific to this part.

(iv)A village or township marshal.

(v)An officer of the police department of any municipality.

(vi)An officer of the Michigan state police.

(vii)The director and conservation officers employed by the department.”

MCL 324.80104(c); MSA 13A.80104(c).

- “‘Motorboat’ means a vessel propelled wholly or in part by machinery.” MCL 324.80103(f); MSA 13A.80103(f).
- “‘Operate’ means to be in control of a vessel while the vessel is under way and is not secured in some manner such as being docked or at anchor.” MCL 324.80103(g); MSA 13A.80103(g).

## **6.3 Authority of District Court Magistrates Under the Marine Safety Act**

### **A. Misdemeanors Up to 90 Days**

MCL 600.8511(a)(iii); MSA 27A.8511(a)(iii), of the Revised Judicature Act provides that district court magistrates, when authorized by the chief judge, have the jurisdiction and duties to arraign and sentence upon pleas of guilty or nolo contendere for misdemeanor violations of the Marine Safety Act, when the maximum penalty does not exceed 90 days in jail.

MCL 600.851(a)(iii); MSA 27A.8511(a)(iii), does not preclude magistrates from taking pleas and passing sentences for drinking and driving violations of the Marine Safety Act, when authorized by the chief judge. Magistrates should check with their chief judge to determine the court's policy on this matter. Many chief judges do not authorize magistrates to take pleas and pass sentences for any offense involving drinking and driving.

## B. State Civil Infractions

MCL 600.8512(1); MSA 27A.8512(1), states that:

“a district court magistrate may hear and preside over... civil infraction actions pursuant to... section 8819 [of the Revised Juricature Act]. In exercising the authority conferred by this subsection, the magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law. If the defendant is determined to be responsible for a civil infraction, the magistrate may impose the civil sanctions authorized [by statute].”

Section .8819, in turn, describes the procedures to follow at informal hearings in state civil infraction actions. MCL 600.8819(1); MSA 27A.8819(1), provides as follows:

“(1) an informal hearing shall be conducted by a district court magistrate, if authorized by the judge or judges of the district court ... or a municipal court. A district court magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law at an informal hearing. The judge or district court magistrate shall conduct the informal hearing in an informal manner so as to do substantial justice according to the rules of substantive law, but is not bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, except provisions relating to privileged communications. There shall not be a jury at an informal hearing. A verbatim record of an informal hearing is not required.”

**DNR Note:** Certain counties exercise common jurisdiction over offenses committed on the Great Lakes:

- Offenses committed on Lake Erie within the boundary of Michigan may be adjudicated in either Wayne or Monroe Counties. MCL 45.6; MSA 5.286.
- Offenses committed on Lake St. Clair within the boundary of Michigan may be adjudicated in either Wayne, Macomb, or St. Clair Counties. MCL 45.8; MSA 5.287.
- Offenses committed on the waters of Lake Michigan within Michigan may be adjudicated by either of the two counties nearest to the place where the offense was committed. MCL 45.10; MSA 5.288.
- Offenses committed on the waters of Lake Huron within Michigan may be adjudicated by either of the two counties nearest to the place where the offense was committed. MCL 45.12; MSA 5.289.
- Offenses committed on the waters of Lake Superior within Michigan may be adjudicated in any county abutting Lake Superior. MCL 45.14; MSA 5.290.

## 6.4 Enforcement of Marine Safety Act by Peace Officers

Peace officers with authority to enforce the Marine Safety Act include sheriff's deputies, special sheriff's deputies who have completed at least 40 hours of law enforcement training related to this Act, local police officers, Michigan state police officers, and DNR conservation officers. *See* MCL 324.80104(c); MSA 13A.80104(c) (definition of peace officer).

MCL 324.80168(1); MSA 13A.80168(1), provides that when a person is arrested for a misdemeanor violation of the Marine Safety Act, the peace officer shall prepare a written notice to appear in court. If the arrested person so demands, he or she shall be arraigned, without unreasonable delay, before a district court judge or magistrate. *Id.* The only exceptions to the use of appearance tickets are for persons who are charged with operating a vessel while intoxicated or impaired. *See* MCL 324.80167; MSA 13A.80167.

MCL 324.80169; MSA 13A.80169, provides that if the person arrested for a misdemeanor violation is a nonresident of Michigan, the peace officer may require the person to recognize to the officer a sum of money not to exceed \$25. If the person fails to appear as required, this recognizance shall be forfeited, in addition to any other penalty provided by the Act. *Id.*

**DNR Note:** Michigan conservation officers are fully trained and certified peace officers. They are authorized to enforce the general criminal laws of the state, including the laws related to marine safety.

State park and recreation officers are authorized to enforce one section of the Marine Safety Act. MCL 324.74124(2)(f); MSA 13A.74124(2)(f). That section, MCL 324.80198b; MSA 13A.80198b, concerns swimming in public swimming areas.

Marine deputies employed by most sheriff's departments play a significant role in the enforcement of Michigan's boating laws. Based on the number of marine deputies employed across the state, they issue the majority of the citations that are issued by all agencies each year. Often, marine deputies are employed on a seasonal basis. Those marine deputies who are not fully trained and certified peace officers must undergo at least 40 hours of law enforcement training, including training specific to this Act. The Michigan Sheriffs Association currently sponsors this training. These deputies are funded through the funds received from the sale of vessel registrations (certificates of number). The DNR administers this fund, and grants are made to counties on a 75% state/25% local match.

## 6.5 Safety Inspections of Vessels

MCL 324.80166; MSA 13A.80166, provides that peace officers may stop vessels in the waters of the state to conduct safety inspections of those vessels. If the vessel passes the inspection, the peace officer shall affix to the vessel a color-coded marine safety inspection decal that is effective for

one calendar year. If the officer observes a violation of the Marine Safety Act, the officer may issue a notice to appear or a written or verbal warning.

MCL 324.80166(1); MSA 13A.80166(1), states as follows:

“(1) Upon the direction of a peace officer, the operator of a vessel moving on the waters of this state shall immediately bring the vessel to a stop or maneuver it in a manner that permits the peace officer to come beside the vessel. The operator of the vessel and any person on the vessel shall do the following upon the request of the peace officer:

- (a) Provide his or her correct name and address.
- (b) Exhibit the certificate of number awarded for the vessel.
- (c) If the vessel does not bear a decal described in subsection (3), submit to a reasonable inspection of the vessel and to a reasonable inspection and test of the equipment of the vessel.”

**DNR Note:** The Law Enforcement Division of the DNR does not construe section 80166 as permitting random stops of vessels by peace officers where a reasonable suspicion to believe that a law is being violated is absent. It is the philosophy of the Division that vessels are to be treated like motor vehicles under the laws of Michigan for purposes of stopping and searching a vessel. Once a vessel is lawfully stopped, it may be subject to a non-intrusive safety inspection.

The inspection decal provided for in section 80166 has not been implemented. At the time that section 80166 was enacted, the concept appeared reasonable. However, with nearly 1,000,000 registered watercraft in the state, coupled with relatively few marine enforcement officers and the length of the boating season, the concept proved impractical.

There was also significant cost associated with such a program. A durable decal needed to be designed, produced, and distributed. The language of the statute also created a record-keeping requirement. More important was the fact that officers would spend a significant amount of their time inspecting a small percentage of registered vessels; time that would be more appropriately spent on the water enforcing the Act.

## 6.6 Rule Making Authority of DNR

The Marine Safety Act provides that the DNR may promulgate rules to establish safety standards for vessels. *See* MCL 324.80114(1) and (2); MSA 13A.80114(1) and (2), which state as follows:

“(1) The department may promulgate rules to establish performance or other safety standards relating to boat construction or the installation, use, or carriage of associated equipment.”

“(2) In order that a boat operator may pass unhindered from jurisdiction to jurisdiction, it is the intention of the legislature that rules authorized by this section shall be identical to federal regulations for enforcement purposes. However, rules requiring the carrying or using of marine safety articles to meet uniquely hazardous conditions or circumstances within this state may be promulgated, if the rules for the safety articles are approved by the United States coast guard.”

A person who violates a rule or order promulgated by the DNR shall be guilty of a misdemeanor punishable by up to 90 days in jail and/or a fine of not more than \$100. MCL 324.80171; MSA 13A.80171.\*

\*By comparison, violations of administrative rules under the ORV Act and the Snowmobile Act are civil infractions. See MCL 324.504; MSA 13A.504.

**DNR Note:** There have been a great many marine safety rules promulgated by the DNR. These rules deal with the following subjects:

- Regattas and marine parades.
- State aid for marine safety programs.
- Uniform waterway marking system.
- Numbering of vessels and motor boats.
- Reporting requirements for marine accidents.
- Required equipment on vessels.

Many of these rules will be discussed in greater detail in subsequent sections of this chapter. In addition, the rules for equipment on vessels are quoted in full in Part D of this chapter.

All administrative rules are compiled by rule number in the “Michigan Administrative Code, 1979,” the “Annual Administrative Code Supplements,” and the “Michigan Register” that is issued monthly. These volumes should be available in most county law libraries. In addition, they may be accessed on the World Wide Web at:

[www.state.mi.us/execoff/admincode/depart.htm](http://www.state.mi.us/execoff/admincode/depart.htm).

In addition, administrative rules administered by the DNR may be found through the Department’s web site. Start at [www.dnr.state.mi.us](http://www.dnr.state.mi.us). Then click on “Divisions,” then “Law,” and then on “DNR Laws, Rules, and Regulations.”



## 6.7 Local Ordinances That Regulate Marine Safety

MCL 324.80110 to .80112; MSA 13A.80110 to .80112, describe the procedures for the enactment of special rules and local ordinances that deal with the operation of vessels. These provisions state as follows:

- “The department may initiate investigations and inquiries into the need for special rules for the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances on any of the waters of this state. If controls for such activities are considered necessary, or changes or amendments to or repeal of an existing local ordinance is required, a local ordinance shall be prepared. Notice of a public hearing shall be made in a newspaper of general circulation in the area in which the local ordinance is to be imposed, amended, or repealed, not less than 10 calendar days before the hearing. Interested persons shall be afforded an opportunity to present their views on the proposed local ordinance either orally or in writing.” MCL 324.80110; MSA 13A.80110.
- “A local ordinance proposed pursuant to section 80110 shall be submitted to the governing body of the political subdivision in which the controlled waters lie. Within 60 calendar days, the governing body shall inform the department that it approves or disapproves of the proposed local ordinance. If the required information is not received within the time specified, the department shall consider the proposed local ordinance disapproved by the governing body. If the governing body disapproves the proposed local ordinance, or if the 60-day period has elapsed without a reply having been received from the governing body, no further action shall be taken. If the governing body approves the proposed local ordinance, the local ordinance shall be enacted identical in all respects to the local ordinance proposed by the department.” MCL 324.80111; MSA 13A.80111.
- “Local political subdivisions that believe that special local ordinances of the type authorized by this part are needed on waters subject to their jurisdiction shall inform the department and request assistance. All such requests shall be in the form of an official resolution approved by a majority of the governing body of the concerned political subdivision. Upon receipt of such resolutions, the department shall proceed as required by sections 80110 and 80111.” MCL 324.80112; MSA 13A.80112.

**DNR Note:** The process described in these sections allows the DNR to cooperate with local units of government to establish special local watercraft controls. These special controls are used to address marine safety concerns that can not be addressed by provisions contained in the Act. Local watercraft controls are not implemented to prohibit certain types of watercraft or to solve societal conflicts unrelated to marine safety.

Section 80113 of the Act provides that state, county, and local peace officers are authorized to enforce these ordinances.

Section 80113 also provides that the local watercraft controls promulgated as administrative rules prior to March of 1986 shall remain valid. This often creates a confusing situation in that a court may see citations issued for both ordinance violations (promulgated after 1986) and administrative rule violations (promulgated before 1986) stemming from marine activity on the same body of water.

## 6.8 State Aid to Counties for Marine Safety Programs

MCL 324.80115(1); MSA 13A.80115(1), provides that 49% of the revenues received under the Marine Safety Act shall be credited to the marine safety fund. This fund, in turn, is used by the DNR to provide state aid to counties to conduct boating safety programs, and to provide personnel and equipment to enforce the Marine Safety Act.

MCL 324.80117(1); MSA 13A.80117(1), establishes the basic rules for the distribution of state aid:

“(1) Each county of the state is entitled to receive state aid as provided in this part. A county board of commissioners desiring to conduct a marine safety program shall submit to the department by December 31 of each year an estimate of authorized expenditures for the following calendar year, in the form and containing the information the department requires. The department shall review the entire request and may approve the program of each county to assist in determining the amount of state aid to be allocated to a county for its marine safety program. In making its annual determination of the amount of state aid to be allocated to a county, the department shall develop and employ a formula which shall include such factors as:

(a) The number of students to be trained in boating safety in any United States coast guard auxiliary, United States power squadron, or department-sponsored marine safety classes.

(b) The number of boat user days.

(c) The number of livery boats.

(d) Program effectiveness measured by comparing the existing rate of compliance with current statutes to the acceptable rate of compliance determined by the department.

(e) The number and type of boat access areas requiring a county marine safety program.

(f) The water area of the county.”

**DNR Note:** The Michigan counties that participate in the marine safety program are an integral and important part of the state program. Each year, approximately \$2.8 million is awarded to participating counties. In addition, an extra \$400,000 is awarded statewide for efforts aimed at improving personal watercraft safety. The counties are required to provide 25% of their expenditures.

Currently, 80 of Michigan's 83 counties are partners in the marine safety program. Only the counties of Alger, Luce, and Schoolcraft have chosen not to participate.

## 6.9 Penalty Provisions in Marine Safety Act

The general rule, except as otherwise provided, is that a person who violates the Marine Safety Act is guilty of a misdemeanor. MCL 324.80171; MSA 13A.80171. The misdemeanor shall be punishable by up to 90 days in jail and/or a fine of not more than \$100. *See* MCL 750.504; MSA 28.772 (punishment of misdemeanor when not fixed by statute).

The only two civil infractions in the Marine Safety Act are as follows:

- Failure to assure that all children under 6 years of age are wearing personal flotation devices while in a vessel. *See* section 6.11(B), *infra*.
- Refusal to submit to a preliminary breath analysis test (PBT). *See* section 6.21(K), *infra*.

**DNR Note:** There are many administrative rules, a violation of which constitutes a misdemeanor punishable by up to 90 days in jail and/or a fine of not more than \$100. *See* MCL 324.80171; MSA 13A.80171.\* The following are the most notable of these rules:

- Rules 281.1201 to 281.1209, numbering of vessels and motorboats. *See* section 6.10, *infra*.
- Rules 281.1231 to 281.1252, required equipment on vessels. *See* section 6.11, *infra*.
- Rules 281.1221 to 281.1226, reporting requirements for marine collisions, accidents, or other casualties. *See* section 6.19, *infra*.

\*By comparison, violations of administrative rules under the ORV Act and the Snowmobile Act are civil infractions. *See* MCL 324.504; MSA 13A.504.

## Part B—Traffic Offenses in the Marine Safety Act

### 6.10 Certificate of Number and Decal Requirements

The Marine Safety Act requires that most vessels being operated on the waters of this state have a certificate of number assigned to that vessel by the Secretary of State. See MCL 324.80122 to .80124; MSA 13A.80122 to .80124. The identifying number and a decal must be displayed on each side of the forward half of the vessel. MCL 324.80122(1); MSA 13A.80122(1). The number and decal are referred to as the “registration number” and the “registration decal.”

In addition, Part 803 of NREPA requires that vessels 20 feet or longer in length, and those powered by an in-board/outboard or in-board engine must be titled through the Secretary of State. See MCL 324.80303; MSA 13A.80303 and MCL 324.80304; MSA 13A.80304. A person who violates section 80304 is guilty of a misdemeanor punishable by a fine of not more than \$100 and/or up to 90 days in jail. MCL 324.80322; MSA 13A.80322.

MCL 324.80122; MSA 13A.80122, states as follows:

“(1) Except as otherwise provided in this part, a person shall not operate or give permission for the operation of a vessel of any length on the waters of this state unless the fees prescribed in section 80124 for the vessel are paid, the certificate of number assigned to the vessel is on board and is in full force and effect, and, except for the following, the identifying number and decal are displayed on each side of the forward half of the vessel in accordance with this part and the rules promulgated by the department under this part:

(a) A decal and identifying numbers for a wooden hull and historic vessel as that term is defined in section 80124 may be displayed in the manner described in section 80126(2).

(b) A decal for an inflatable boat may be displayed on the transom of the boat.”

“(2) If a vessel is actually numbered in another state of principal use in accordance with a federally approved numbering system, it is in compliance with the numbering requirements of this state while it is temporarily being used in this state. This subsection applies to a vessel for which a valid temporary certificate is issued to the vessel’s owner

by the issuing authority of the state in which the vessel is principally used.”

“(3) If a vessel is removed to this state as the new state of principal use, a number awarded by any other issuing authority is valid for not more than 60 days before numbering is required by this state.”

MCL 324.80123; MSA 13A.80123, lists all the exemptions for vessels that are not required to have registration numbers and decals. Section .80123(1) to (3) states as follows:

“(1) The owner of a vessel is not required to pay a fee and a vessel is not required to be numbered and to display a decal under this part if the vessel is 1 or more of the following:

(a)Used temporarily on the waters of this state and the owner and the vessel are from a country other than the United States.

(b)A vessel that is owned by the United States, used in the public service for purposes other than recreation, and clearly identifiable as such a vessel.

(c)A vessel’s lifeboat.

(d)An all-terrain vehicle not used as a vessel.

(e)A raft, sailboard, surfboard, or swim float.

(f)A vessel 16 feet or less, propelled by hand either with oars or paddles, and not used for rental or other commercial purposes.

(g)A nonmotorized canoe or kayak not used for rental or other commercial purposes.”

“(2) The owner of a vessel documented by the United States coast guard or a federal agency that is the successor to the United States coast guard shall comply with this part, including the payment of fees as provided in this part. However, the vessel shall not be required to display numbers under this part.”

“(3) This part does not prohibit the numbering of an undocumented vessel pursuant to this part upon request by the owner, even though the vessel is exempt from the numbering requirements of this part.”

**DNR Note:** Certain vessels may be “documented” by a process administered by the United States Coast Guard. In order to be documented, a vessel must be at least 5 net tons. Documentation is mandatory for a vessel being used for commercial purposes on federally navigable waters and is optional for those used only for recreation. Only vessels manufactured in the United States may be documented. Also, with very few exceptions, the vessel must be wholly owned by a U.S. citizen.

The documentation process essentially results in a vessel having a “clear title,” as the history of the vessel is recorded beginning at the start of the building process and continuing through all changes in ownership. Documentation is desirable because it enhances financing options through the availability of preferred mortgages; it provides conclusive evidence of nationality for international purposes; and it provides for unhindered commerce between the states.

Although documented vessels are not required to display registration numbers, they are required to obtain a certificate of number and to display the registration decal.

MCL 324.80124; MSA 13A.80124, is a very lengthy statutory section that contains 25 subsections. Among other things, section 80124 describes the application procedure for obtaining a certificate of number, and lists the fees for all the different types of vessels.

**DNR Note:** The DNR has promulgated rules regarding the size, color, and placement of identifying numbers on vessels. *See* Rules 281.1201 to 281.1209. A violation of these rules is a misdemeanor. *See* MCL 324.80171; MSA 13A.80171. Rule 281.1204 states as follows:

“(1) Each number required by ... the act shall meet all of the following requirements:

- (a) Be painted on or permanently attached to each side of the forward half of the vessel or motorboat except as allowed by subrule (2) or required by subrule (3).
- (b) Be in plain vertical block characters of not less than 3 inches in height.
- (c) Contrast with the color of the background and be distinctly visible and legible.
- (d) Have spaces or hyphens that are equal to the width of the letter “M” between the letter and number groupings (example: MC 0000 AA or MC-0000-AA).
- (e) Read from left to right.
- (f) Be as high above the water line as practical.”

“(2) When a vessel or motorboat is used by a manufacturer or dealer for testing or demonstrating, the number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel or motorboat.”

“(3) On vessels or motorboats so configured that a number on the hull or superstructure would not be easily visible, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel or motorboat so that the number is visible from each side of the vessel or motorboat.”

## 6.11 Equipment Requirements and Required Personal Flotation Devices

### A. Misdemeanors

MCL 324.80156; MSA 13A.80156, details the sound requirements for motorboat mufflers and underwater exhaust systems. Subsection 80156(6) states that a person who violates this section is guilty of a misdemeanor punishable by up to 90 days in jail and/or a fine of not less than \$100 or more than \$500. Section 80156(1) states as follows:

“Subject to subsection (2), a person shall not operate a motorboat on the waters of this state unless the motorboat is equipped and maintained with an effective muffler or underwater exhaust system that does not produce sound levels in excess of 90 dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005 or a sound level in excess of 75 dB(A) when subjected to a shoreline sound level measurement procedure as described by SAE J1970. The operator of a motorboat shall present the motorboat for a sound level test as prescribed by SAE J2005 upon the request of a peace officer. If a motorboat is equipped with more than 1 motor or engine, the test shall be performed with all motors or engines operating. To determine whether a person is violating this subsection, a peace officer may measure sound levels pursuant to procedures prescribed in SAE J1970, issued 1991-92.”

**DNR Note:** The DNR has promulgated 22 different rules dealing with equipment requirements for vessels. *See* Rules 281.1231 to 281.1252. Each of these rules is quoted in full in Part D of this chapter. A violation of these rules is a misdemeanor. *See* MCL 324.80171; MSA 13A.80171.

These rules describe the requirements for navigation lights, personal flotation devices, fire extinguishers, backfire flame controls, ventilation ducts, and mufflers and exhaust systems. In addition, they provide additional equipment requirements for inboard and outboard motorboats, sailboats, rowboats, canoes, and kayaks.

### B. State Civil Infractions—Flotation Devices for Children

MCL 324.80142; MSA 13A.80142, is the only civil infraction in the Marine Safety Act dealing with equipment violations. Subsection 80142(1) states that “a person shall not operate a vessel on the waters of this state unless each person in an open deck area on board the vessel who is less than 6 years of age is wearing a type I or type II personal flotation device as described in R 281.1234 of the Michigan administrative code.” Subsection 80142(5) states

that a person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100. *See* Part D for a quotation of R 281.1234.

## 6.12 Operation of Vessels by Children Less Than 16 Years of Age

MCL 324.80140; MSA 13A.80140, provides that the DNR shall put into effect a program to train young boat operators, and shall issue boating safety certificates to those who satisfactorily complete the program.\*

MCL 324.80141(1) and (2); MSA 13A.80141(1) and (2), establishes the restrictions for the operation of vessels by children less than 16 years of age. They are as follows:

- §.80141(1)—persons under 12 years of age may not operate a motorboat on the waters of this state unless all the following conditions are met:
  - “(a)He or she is under the direct supervision of a person on board the motorboat who is 16 years of age or older.”
  - “(b)The motorboat he or she operates is powered by a motor or motors totaling no more than 35 horsepower.”
- §.80141(2)—a person 12 through 15 years of age may operate a motorboat in the waters of this state only if that person complies with either of the following:
  - “(a)He or she is accompanied by at least 1 person 16 years of age or older.”
  - “(b)He or she is in possession of a boating safety certificate issued after he or she has satisfactorily completed a department approved course in boating safety.”

MCL 324.80141(4); MSA 13A.80141(4), provides that this section does not apply to a motorboat that is powered by a motor totaling no more than 6 horsepower.

\*See section 6.8 for a discussion of state aid to counties for marine safety programs.



## 6.13 Right of Way Requirements and Operation of Vessels in Restricted Areas

### A. Right-of-Way Requirements

MCL 324.80144(1) and (2); MSA 13A.80144(1) and (2), establishes the basic right of way requirements for vessels. It states:

“(1) When vessels are being operated in such a manner as to make collision imminent or likely, the following rules apply:

(a) When 2 vessels are approaching each other head-on, or nearly so, the operator of each shall cause his or her vessel to pass on the port side of the other.

(b) When overtaking a vessel proceeding in the same direction, the operator of the overtaking vessels, unless it is not feasible to do so, shall pass on the port side of the vessel ahead.

(c) When 2 vessels are approaching each other at right angles or obliquely so as to involve risk of collision, other than when 1 vessel is overtaking another, the operator of the vessel that has the other on his or her own port side shall hold his or her course and speed, and the operator of the vessel that has the other on his or her own starboard side shall give way to the other by directing his or her course to starboard so as to cross the stern of the other vessel or, if necessary to do so, shall slacken his or her speed, stop, or reverse.

(d) When a motorboat and a vessel under sail are proceeding in a manner that involves a risk of collision, the operator of the motorboat shall give way to the vessel under sail.

(e) When a motorboat and a vessel not propelled by sail or mechanical means are proceeding in a manner that involves risk of collision, the operator of the motorboat shall give way to the other vessel.

(f) When, by any of the rules provided in this section, the operator of a vessel is required to

give way to the other, the operator of the other vessel shall maintain his or her direction and speed.”

“(2) This section does not relieve the operator of a vessel otherwise privileged by this section from the duty to operate with due regard for the safety of all persons using the waters of this state.”

**DNR Note:** The DNR does not construe section 80144 as a penal provision, because it does not prohibit certain operator behaviors. It simply provides basic guidance on how vessels should be operated under various circumstances. This section may also be used in the case of an accident involving two or more vessels to help establish a responsible party.

## B. Operation of Vessels in Restricted Areas

MCL 324.80149 and .80150; MSA 13A.80149 and .80150, establish the requirements for the operation of vessels in restricted areas. They state as follows:

- “Persons operating vessels on the waters of this state in areas not marked by well defined channels, canals, rivers, or stream courses shall operate the vessels in a counterclockwise fashion to the extent that it is reasonably possible. These persons and persons being towed on water skis or on a water sled, kite, surfboard, or similar contrivance shall maintain a distance of 100 feet from any dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when the vessel is proceeding at a slow—no wake speed or when water skiers are being picked up or dropped off, if that operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state.” MCL 324.80149; MSA 13A.80149.
- “A person shall not operate a vessel on any of the waters of this state within a lawfully authorized restricted area clearly marked by buoys, beacons, or other distinguishing devices as being prohibited to vessels.” MCL 324.80150; MSA 13A.80150.

A person who violates sections 80149 or 80150 is guilty of a misdemeanor. *See* MCL 324.80171; MSA 13A.80171.

MCL 324.80162; MSA 13A.80162, provides the requirements for vessels with respect to buoys and beacons. It states that “a person shall not moor or fasten a vessel to a lawfully placed buoy or beacon, except mooring buoys, or willfully move, remove, or damage such a buoy or beacon.” A person who violates section 801662 is guilty of a misdemeanor. *See* MCL 324.80171; MSA 13A.80171.

**DNR Note:** MCL 324.80159; MSA 13A.80159, establishes the permit requirements for placing of buoys and beacons. In addition, the DNR has created through its rule making powers a state uniform waterway marking system. *See* Rules 281.1101 to 281.1114.

## 6.14 Speed Requirements

MCL 324.80145; MSA 13A.80145, establishes the “assured clear distance” speed requirement for vessels. It states:

“A person operating or propelling a vessel upon the waters of this state shall operate it in a careful and prudent manner and at such a rate of speed so as not to endanger unreasonably the life or property of any person. A person shall not operate any vessel at a rate of speed greater than will permit him or her, in the exercise of reasonable care, to bring the vessel to a stop within the assured clear distance ahead. A person shall not operate a vessel in a manner so as to interfere unreasonably with the lawful use by others of any waters.”

MCL 324.80148(1) and (2); MSA 13A.80148(1) and (2), describes the circumstances when a vessel must be operated at a no wake speed. It states:

“(1) Subject to the exceptions described in subsection (2), a person shall not operate a motorboat at more than slow—no wake speed if any of the following circumstances exist:

(a) A person is located on or in the bow of the motorboat, and that motorboat is not manufactured to provide bow seating.

(b) A person or a portion of a person’s body extends beyond the exterior port or starboard walls of the hull of the motorboat.”

“(2) This section does not apply to either of the following:

(a) A person engaged in the operation of a sailboat that is not being powered by a motor.

(b) A person on board a vessel who is attempting to anchor, moor, dock, or otherwise secure the vessel.”

A person who violates sections .80145 or .80148 is guilty of a misdemeanor. *See* MCL 324.80171; MSA 13A.80171.

MCL 324.80146(1) to (5); MSA 13A.80146(1) to (5), establishes the maximum speed limit for vessels that operate on the waters of Michigan. It states:

“(1) The department may promulgate rules to establish maximum motorboat speed limits or to allow unlimited motorboat speed on the waters of this state.”

“(2) On waters of this state for which a motorboat speed limit is not established under subsection (1), on any waters for which the department has not established an unlimited motorboat speed limit, or on any waters for which stricter speed restrictions are not established pursuant to an act, a maximum speed limit of 55 miles per hour is established, except in an emergency and except for authorized peace and conservation officers when engaged in official duties. The maximum speed limit of 55 miles per hour shall not apply to the Great Lakes and Lake St. Clair, except for an area within 1 mile of the shoreline measured at a right angle from the shoreline. Upon receipt of a resolution by the governing body of a local unit of government having jurisdiction over waters of this state requesting a reduction in the maximum speed limit on those waters, the department, pursuant to sections 80108 to 80113, may establish a maximum speed limit not to exceed 40 miles per hour on those waters.”

“(3) A person shall not operate a motorboat on the waters of this state at a speed greater than slow-no wake speed or the minimum speed necessary for the motorboat to maintain forward movement when within 100 feet of the shoreline where the water depth is less than 3 feet, as determined by vertical measurement, except in navigable channels not otherwise posted.”

“(4) A person operating a motorboat in violation of this section is guilty of reckless operation of a motorboat punishable as provided in section 80171.”

“(5) The department may waive this section and section 80156 for marine events authorized by the department under section 80164.”

A person who violates section .80146 is guilty of a misdemeanor. In addition, that person may be ordered by the court to not operate any vessel in the waters of the state for a period of not more than 2 years. *See* MCL 324.80171; MSA 13A.80171.

## 6.15 Reckless Operation of Vessels

MCL 324.80147(1) and (3); MSA 13A.80147(1) and (3), establishes the offense and the penalty for reckless operation of a vessel. It states:\*

“(1) If a person carelessly and heedlessly operates a vessel upon the waters of this state in disregard of the rights or safety of others, without due caution and circumspection, or at a rate of speed or in a manner that endangers or is likely to endanger a person or property, that person is guilty of reckless operation of a vessel and is subject to the penalties described in subsection (3).”

...

“(3) Upon a person’s conviction under this section, the court may issue an order prohibiting that person from operating a vessel on the waters of this state for a period of not more than 2 years. Upon a person’s subsequent conviction under this section, the court shall order that person to participate in and complete a marine safety educational program approved by the department. An order issued pursuant to this subsection is in addition to any other penalty authorized under this part.”

\*Subsection .80147(2) establishes the offense of reckless operation by a person being towed on water skis, a water sled, a surfboard, or a similar contrivance. See section 6.17, *infra*.

## 6.16 Rocking and Jostling of Vessels

MCL 324.80153 and .80154; MSA 13A.80153 and .80154, establish the prohibitions against standing in vessels and rocking, jostling, or tipping of vessels. They state as follows:

- “Any occupant or operator of any vessel under way on the waters of this state shall not sit, stand, or walk upon any portion of the vessel not specially designed for that purpose, except when immediately necessary for the safe and reasonable navigation or operation of the vessel.” MCL 324.80153; MSA 13A.80153.
- “A person not in a boat shall not intentionally rock, tip, jostle, or otherwise interfere with the operation of any vessel, except under supervised training.” MCL 324.80154; MSA 13A.80154.

A person who violates section 80153 or .80154 is guilty of a misdemeanor. *See* MCL 324.80171; MSA 13A.80171.

## 6.17 Water-skiing Requirements

\*Subsection .80147(1) establishes the offense of reckless operation of vessels. See section 6.15, *supra*.

MCL 324.80147(2) and (3); MSA 13A.80147(2) and (3), establishes the offense and the penalties for reckless operation by a person being towed on water skis, a water sled, a surfboard, or a similar contrivance. It states:\*

“(2) If a person, while being towed on water skis, a water sled, a surfboard, or a similar contrivance upon the waters of this state, carelessly and heedlessly navigates, steers, or controls himself or herself in disregard of the rights or safety of others or without due caution and circumspection and in a manner that endangers or is likely to endanger a person or property, then that person is guilty of reckless operation of the contrivance that he or she controls and is subject to the penalties described in subsection (3).”

“(3) Upon a person’s conviction under this section, the court may issue an order prohibiting that person from operating a vessel on the waters of this state for a period of not more than 2 years. Upon a person’s subsequent conviction under this section, the court shall order that person to participate in and complete a marine safety educational program approved by the department. An order issued pursuant to this subsection is in addition to any other penalty authorized under this part.”

MCL 324.80151; MSA 13A.80151, establishes the time periods when a person may not be towed on water skis. It states:

“An operator of any vessel shall not have in tow or otherwise be assisting in the propulsion of a person on water skis or on a water sled, surfboard, or other similar contrivance during the period of 1 hour after sunset to 1 hour prior to sunrise. Any person permitting himself or herself to be towed on water skis or on a water sled, surfboard, or similar contrivance in violation of this part is guilty of a misdemeanor.”

MCL 324.80152(1) to (3); MSA 13A.80152(1) to (3), requires all vessels that are towing water-skiers to have a person in the back of the tow vessel. It states:

“(1) A person shall not operate a vessel on the waters of this state if he or she is towing or otherwise assisting a person on water skis or on a water sled, aquaplane, surfboard, or other similar contrivance unless a person capable of

communicating to the vessel operator the condition and needs of the person being towed or assisted is on board the vessel and positioned to observe the person being towed or assisted.”

“(2) Subsection (1) does not apply to vessels used by duly constituted ski schools in the giving of instructions or to vessels used in sanctioned ski tournaments, competitions, expositions, or trials. Vessels described in this subsection shall be equipped with a 170-degree wide-angle rearview mirror affixed in a manner that will permit the operator to observe the progress of the person being towed.”

“(3) This section does not apply to motorboats less than 16 feet in length actually operated by the person being towed and so constructed as to be incapable of carrying the operator in or on the motorboat.”

A person who violates section 80152 is guilty of a misdemeanor. *See* MCL 324.80171; MSA 13A.80171.

**DNR Note:** The exemption described in subsection 80152(3) above applies to the very unusual vessel that can be operated by remote control by the water skier.\*

In 1999, the Legislature created an additional exemption for a vessel operator who is towing a person who is preparing for a water-ski tournament. *See* section 80152(4), effective April 1, 2000, as amended by 1999 PA 19.

\*See the logo on the title page of this chapter for an artist’s rendering of this unusual type of vessel, created by MJI’s “artist-in-residence,” Mary Ann McDaid.

## 6.18 Underwater Diving Requirements

MCL 324.80155; MSA 13A.80155, establishes the requirements for the marking of an area where a person is diving underwater with a mechanical diving device. It states:

- “Any person diving or submerging in any of the waters of this state with the aid of a diving suit or other mechanical diving device shall place a buoy or boat in the water at or near the point of submergence. The buoy or boat shall bear a red flag not less than 14 inches by 16 inches with a 3½ inch white stripe running from 1 upper corner to a diagonal lower corner. The flag shall be in place only while actual diving operations are in progress. A vessel shall not be operated within 200 feet of a buoyed diver’s flag unless it is involved in tendering the diving operation. A person diving shall stay within a surface area of 100 feet of the diver’s flag.”

A person who violates this section is guilty of a misdemeanor. *See* MCL 324.80171; MSA 13A.80171.

## 6.19 Failure to Report Accidents or Give Assistance at Accidents

MCL 324.80133 to .80135; MSA 13A.80133 to .80135, require operators of vessels involved in accidents to give assistance to injured persons, to give identifying information to the operator of other vessel, and to report the accident to peace officers. They state as follows:

- “(1) The operator of a vessel involved in a collision, accident, or other casualty, and the operator of any other vessel, to the extent that he or she can do so without serious danger to his or her own vessel, crew, and passengers, shall render reasonable assistance to a person affected by the collision, accident, or other casualty, including the transporting of the injured person to a physician or surgeon for medical or surgical treatment, if it is apparent that treatment is necessary or when requested by the injured person.”

“(2) A person who complies with subsection (1), or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty without objection of the person assisted, is not liable for civil damages as a result of the rendering of assistance, or for an act or omission in providing or arranging towage, medical treatment, or other assistance, if the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.” MCL 324.80133; MSA 13A.80133.

- “In the case of collision, accident, or other casualty involving a vessel, the operator shall stop his or her vessel and give his or her name and address and identification of his or her vessel, and the name and address of the owner of the vessel if he or she is not the operator, to the operator or occupants of any other vessel involved or to the owner or his or her agents of any property damaged by the accident.” MCL 324.80134; MSA 13A.80134.
- “(1) In the case of collision, accident, or other casualty involving a vessel, the operator shall report the collision, accident, or other casualty to the nearest peace officer, state police post, or the sheriff of the county in which the collision, accident, or other casualty occurred.

“(2) A report of a collision, accident, or other casualty involving a vessel that is made to a peace officer other than the sheriff of the county in which the collision, accident, or other casualty occurred shall be reported without delay by the peace officer to the sheriff of the county in which the collision, accident, or other casualty occurred.” MCL 324.80135; MSA 13A.80135.

A person who violates any of these statutory sections is guilty of a misdemeanor. *See* MCL 324.80171; MSA 13A.80171.

**DNR Note:** See Rules 281.1221 to 281.1226, for more detailed requirements regarding accident reports.



## 6.20 Felonious Operation of Vessels

MCL 324.80172 and .80173; MSA 13A.80172 and .80173, establish two offenses that are punishable by up to 2 years in prison and/or a fine of not more than \$2,000. They state as follows:

- “A person who, by the operation of any vessel at an immoderate rate of speed or in a careless, reckless, or negligent manner, but not willfully or wantonly, injures so as to cripple or cause death of another is guilty of a misdemeanor, and shall be imprisoned for not more than 2 years, or fined not more than \$2,000, or both.” MCL 324.80172; MSA 13A.80172.
- “A person who operates any vessel carelessly and heedlessly in willful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property and thereby injures so as to cripple any person, but not causing death, is guilty of the offense of felonious operation, and shall be imprisoned for not more than 2 years, or fined not more than \$2,000, or both.” MCL 324.80173 and .80173; MSA 13A.80173.

## 6.21 Operation of Vessels While Intoxicated or Impaired

### A. Introduction

The statutory provisions dealing with the operation of vessels while intoxicated or impaired are contained at MCL 324.80176 to .80195; MSA 13A.80176 to .80195. They are:

- §.80176—Elements of OUIL and impaired driving offenses involving vessels.
- §.80177—Penalties for OUIL 1st, 2nd, and 3rd offense.
- §.80178—Penalties for operating while impaired, 1st, 2nd, and 3rd offense.
- §.80179—Required notice on complaint and information when prosecutor intends to seek an enhanced sentence.
- §.80180—Arrest powers of peace officers and procedures for administering preliminary chemical breath analysis tests (PBTs).
- §.80181—Procedures for administering chemical tests of a person’s blood, urine, or breath.
- §.80182—Procedures for administering chemical tests of blood at hospitals following an accident.
- §.80183—Evidence of intoxication that is admissible at trial.
- §.80184—Statutory presumptions following chemical tests of blood, urine, or breath.
- §.80185—Required advice to defendants at guilty pleas, and required substance abuse screening prior to sentencing.

- §.80186—Court ordered suspensions of operating privileges.
- §.80187—Implied consent provisions requiring operators to submit to chemical tests of blood, urine, or breath.
- §.80188—Court orders for chemical tests if a person refuses to consent to a chemical test.
- §.80189—Required notice to Secretary of State when an operator refuses to submit to a chemical test.
- §.80190 to .80195—Procedures at Secretary of State administrative hearings to decide whether a person’s right to operate a vessel should be suspended.

Many of these statutory sections will be discussed in more detail in the following subsections.

## **B. Operating a Vessel While Under the Influence of an Intoxicating Liquor or Controlled Substance**

MCL 324.80176(1) and (2); MSA 13A.80176(1) and (2), state as follows:

“(1) A person shall not operate a vessel on the waters of this state if either of the following applies:

(a) The person is under the influence of intoxicating liquor or a controlled substance, or both.

(b) The person has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.”\*

“(2) The owner of a vessel or a person in charge or in control of a vessel shall not authorize or knowingly permit the vessel to be operated on the waters of this state by a person who is under the influence of intoxicating liquor or a controlled substance, or both, or who has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.”

Persons convicted of operating a vessel while intoxicated shall be punished as follows:

- MCL 324.80177(1)(a)(i) to (iii); MSA 13A.80177(1)(a)(i) to (iii), states that first offenders may be punished by one or more of the following:
  - (i) Up to 45 days of community service;

\*This is commonly referred to as a “per se” violation, or operating with an unlawful blood alcohol level (UBAL).

(ii) Up to 90 days in jail;

(iii) A fine of between \$100 and \$500.

- MCL 324.80177(1)(b)(i) and (ii); MSA 13A.80177(1)(b)(i) and (ii), states that second offenders (within 7 years) shall be fined not less than \$200 or more than \$1,000, and either of the following:
  - (i) Community service for not less than 10 days or more than 90 days, and up to 1 year in jail;
  - (ii) Jail for not less than 48 consecutive hours or more than 1 year, and up to 90 days of community service.
- MCL 324.80177(1)(c); MSA 13A.80177(1)(c), states that third or subsequent offenders (within 10 years) shall be guilty of a felony and shall be sentenced to imprisonment for not less than 1 year or more than 5 years, and/or a fine of not less than \$500 or more than \$5,000.
- MCL 324.80177(4); MSA 13A.80177(4), states that a person convicted of violating section .80176(2) is guilty of a misdemeanor punishable by up to 90 days in jail, and/or a fine of not less than \$100 or more than \$500.
- MCL 324.80177(5); MSA 13A.80177(5), provides that “prior conviction” (as used in this section) means a violation of section 80176(1), (4), or (5), a local ordinance substantially corresponding to section 80176(1), or a violation of a law of another state substantially corresponding to section 80176(1), (4), or (5).\*

\*See section 6.21(D) and (E), *infra* for a summary of sections 80176 (4) and (5).

### C. Operating a Vessel While Visibly Impaired

MCL 324.80176(3); MSA 13A.80176(3), states that “a person shall not operate a vessel on the waters of this state when, due to the consumption of an intoxicating liquor or a controlled substance, or both, the person’s ability to operate the vessel is visibly impaired.”

Persons convicted of operating a vessel while visibly impaired shall be punished as follows:

- MCL 324.80178(1)(a)(i) to (iii); MSA 13A.80178(1)(a)(i) to (iii), states that first offenders may be punished by 1 or more of the following:
  - (i) Up to 45 days of community service.
  - (ii) Up to 90 days in jail.
  - (iii) A fine of not more than \$300.
- MCL 324.80178(1)(b)(i) and (ii); MSA 13A.80178(1)(b)(i) and (ii), state that second offenders (within 7 years) shall be fined not less than \$200 or more than \$1,000 and either of the following:

(i) Community service for not less than 10 days or more than 90 days and up to 1 year in jail.

(ii) Up to 1 year in jail and community service for not more than 90 days.

- MCL 324.80178(c)(i) and (ii); MSA 13A.80178(c)(i) and (ii), state that third offenders (within 10 years) shall be fined not less than \$200 or more than \$1,000 and either of the following:

(i) Community service for not less than 10 days or more than 90 days, and up to 1 year in jail.

(ii) Up to 1 year in jail and community service for not more than 90 days.

- MCL 324.80178(4); MSA 13A.80178(4), provides that “prior conviction” (as used in this section) means a violation of section 80176 (1), (3), (4), or (5), a violation of a local ordinance substantially corresponding to section 80176(1), or a violation of a law of another state substantially corresponding to section 80176 (1), (3), (4), or (5).\*

\*See section 6.21(D) and (E), below for a summary of sections 80176 (4) and (5)

#### **D. Operating a Vessel While Intoxicated and Causing Death**

MCL 324.80176(4); MSA 13A.80176(4), states as follows:

“(4) A person who operates a vessel on the waters of this state under the influence of intoxicating liquor or a controlled substance, or both, or with a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and by the operation of that vessel causes the death of another person is guilty of a felony, punishable by imprisonment for not more than 15 years, or a fine of not less than \$2,500 or more than \$10,000, or both.”

#### **E. Operating a Vessel While Intoxicated and Causing Long-Term Incapacitating Injury**

MCL 324.80176(5); MSA 13A.80176(5), states as follows:

“(5) A person who operates a vessel on the waters of this state under the influence of intoxicating liquor or a controlled substance, or both, or with a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and by the operation of that vessel causes a long-term incapacitating injury to another person is guilty of a felony, punishable by imprisonment for not more than 5 years, or a

fine of not less than \$1,000 or more than \$5,000, or both.”

## F. Statutory Presumptions Following Chemical Tests of Blood, Urine, or Breath

MCL 324.80184; MSA 13A.80184, is the statutory presumption section of the Marine Safety Act. It applies to all marine vessel drinking and driving offenses, except the “per se” violation that is contained at section 80176(1)(b).\*

These presumptions are as follows:

- §.80184(1)(a)—If the operator had a blood alcohol content of .07 or less, it shall be presumed that he or she was not under the influence of intoxicating liquor.
- §.80184(1)(b)—If the operator had a blood alcohol content of more than .07 but less than .10, it shall be presumed that his or her ability to operate a vessel was visibly impaired.
- §.80184(1)(c)—If the operator had a blood alcohol content of .10 or more, it shall be presumed that he or she was under the influence of intoxicating liquor.

MCL 324.80184(2); MSA 13A.80184(2), states that a person’s refusal to submit to a chemical test is admissible at trial only for the purpose of showing that the test was offered, but not as evidence of the guilt or innocence of that person; and that the jury shall be instructed accordingly.

## G. Suspension of Operating Privileges for Refusing to Submit to a Chemical Test

MCL 324.80189 and .80190; MSA 13A.80189 and .80190, are the statutory sections dealing with the administrative hearing requirements following a person’s refusal to submit to a chemical test of his or her blood, urine, or breath.

MCL 324.80190(1) and (4); MSA 13A.80190(1) and (4), provides that if a person unreasonably refuses to submit to a chemical test, the Secretary of State shall suspend that person’s right to operate a vessel for the following periods of time:

- 6 month for the first refusal.
- 1 year for a second or subsequent refusal within 7 years.

## H. Court Ordered Suspensions of Operating Privileges

MCL 324.80186; MSA 13A.80186, provides that immediately upon conviction for a violation of section 80176 (1), (3), (4), or (5), the court shall order that defendant not operate a vessel on the waters of this state. The

\*See section 6.21(B) *supra* for a summary of section 80176(1)(b).

following chart summarizes the lengths of times for these mandatory suspensions.

**Chart 6.21(H)—Court Ordered Suspensions of Operating Privileges**

Name of Offense	Length of Time of Suspension Order	Statutory Reference
Operating while intoxicated—first offense	Not less than 1 year or more than 2 years.	MCL 324.80186(1)(b)(i); MSA 13A.80186(1)(b)(i)
Operating while intoxicated—second offense	Not less than 2 years.	MCL 324.80186(1)(b)(ii); MSA 13A.80186(1)(b)(ii)
Operating while intoxicated—third or subsequent offense	Order shall be without an expiration date.	MCL 324.80186(1)(b)(iii); MSA 13A.80186(1)(b)(iii)
Operating while visibly impaired—first offense	Not less than 90 days or more than one year	MCL 324.80186(1)(c)(i); MSA 13A.80186(1)(c)(i)
Operating while visibly impaired—second offense	Not less than 1 year or more than 2 years	MCL 324.80186(1)(c)(ii); MSA 13A.80186(1)(c)(ii)
Operating while visibly impaired—third or subsequent offense	Order shall be without an expiration date.	MCL 324.80186(1)(c)(iii); MSA 13A.80186(1)(c)(iii)
Operating while intoxicated and causing death or long-term incapacitating injury.	Order shall be without an expiration date.	MCL 324.80186(1)(a); MSA 13A.80186(1)(a).

### **I. Suspensions of Operating Privileges by the Secretary of State**

MCL 324.80191 to .80192; MSA 13A.80191 to .80192, are the statutory sections that deal with orders to not operate vessels issued by the Secretary of State. The orders described in these sections are to be issued notwithstanding any orders issued by the courts under section 80186.\*

MCL 324.80192(3); MSA 13A.80192(3), provides that if an order is issued without an expiration date, the Secretary of State shall not terminate the order until at least one year has passed; and if there is a second order issued within 7 years of the first order, the Secretary of State shall not terminate the second order until at least 5 years have passed.

### **J. Implied Consent Provisions of the Marine Safety Act**

MCL 324.80187; MSA 13A.80187, states as follows:

“(1) A person who operates a vessel on the waters of this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance, or

\*See section 6.21(H), *supra*.

both, in his or her blood in all of the following circumstances:

(a) The person is arrested for a violation of section 80176(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 80176(1) or (3).

(b) The person is arrested for negligent homicide, manslaughter, or murder resulting from the operation of a vessel, and the peace officer had reasonable grounds to believe that the person was operating the vessel while impaired by, or under the influence of, intoxicating liquor or a controlled substance, or both, or while having a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.”

If a person refuses to submit to a chemical test, the Secretary of State shall order that person to not operate a vessel for 6 months. If that person has a second or subsequent refusal within 7 years, the order shall be for one year. MCL 324.80190(1); MSA 13A.80190(1).

#### **K. Civil Infraction for Refusing to Submit to a Preliminary Chemical Breath Analysis Test**

MCL 324.80180(2)(e); MSA 13A.80180(2)(e), provides that a person who refuses to submit to a preliminary chemical breath analysis test (PBT) upon a lawful request by a peace officer is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.

The results of a PBT shall be admissible as evidence solely to assist the court in determining a challenge to the validity of the arrest. MCL 324.80180(2)(c); MSA 13A.80180(2)(c).

### **6.22 Operation of a Vessel After Operating Privileges Have Been Suspended**

MCL 324.80196(1); MSA 13A.80196(1), provides that a person who operates a vessel on the waters of this state in violation of an order from the court or Secretary of State shall be guilty of a misdemeanor punishable by up to 90 days imprisonment and/or a fine of not more than \$500. For a second or subsequent violation, the penalty shall be up to 1 year imprisonment and/or a fine of not more than \$1,000.

MCL 324.80197; MSA 13A.80197, provides that if a person is convicted under section 80196(1), his or her vessel must be ordered impounded for not less than 30 days or more than 120 days from the date of judgement.

## Part C—Special Requirements for Personal Watercraft (PWC)

### 6.23 Introduction to the Personal Watercraft Safety Act

In 1998, the Legislature repealed former MCL 324.80143; MSA 13A.80143, of the Marine Safety Act, which had contained the requirements for personal watercraft vessels. Former section .80143 was then replaced by the Personal Watercraft Safety Act, MCL 281.1401 et. seq.; MSA 18.1287 (401) et. seq., effective March 23, 1999.

MCL 281.1445; MSA 18.1287(445), of the Personal Watercraft Safety Act states that, except as otherwise provided, the operator of a personal watercraft must comply with the requirements of the Marine Safety Act. The prohibitions and sanctions for operating a vessel while under the influence of alcohol or drugs contained in the Marine Safety Act apply to the operators of personal watercraft. Operators of personal watercraft are also required to comply with local watercraft controls established under the Marine Safety Act. However, in construing the two statutes together, if conduct is proscribed by the Personal Watercraft Safety act and similarly by the Marine Safety Act, the violation cited would be the violation of the Personal Watercraft Safety Act against the operator of a personal watercraft.

The remaining sections in this part of the chapter discuss the offenses that are contained in the Personal Watercraft Safety Act, and which, therefore, apply only to PWC. These offenses have been grouped into the following seven categories:

- Boating safety certificate requirements.
- Age restrictions.
- Equipment requirements and required personal flotation devices.
- Prohibited hours of operation.
- Operation in prohibited areas.
- Operation at greater than no wake speed at prohibited locations.
- Reckless operation of PWC.

All of these categories of offenses are discussed in more detail in sections 6.26 to 6.32, *infra*.

**DNR Note:** 1998 PA 116, provides that the Personal Watercraft Safety Act shall be repealed March 23, 2004 (5 years after the date of its enactment).



## 6.24 Penalty Provisions in Personal Watercraft Safety Act

The general rule, except as otherwise provided, is that a person who violates the Personal Watercraft Safety Act is guilty of a misdemeanor, punishable by up to 90 days in jail and/or a fine of not more than \$100. In addition, a person who violates the act may be required to participate in and complete a boating safety course. MCL 281.1439; MSA 18.1287 (439).

The only three civil infractions in the Personal Watercraft Safety Act are as follows:

- Failure by dealer to advise customers of boating safety courses. *See* section 6.26, *infra*.
- Failure by dealer to provide customers with DNR brochure on regulations for PWC. *See* section 6.26, *infra*.\*
- Operating a PWC outside of a channel or where aquatic vegetation is visible. *See* section 6.30, *infra*.

\*See Part E of this chapter for a copy of the personal watercraft brochure that is distributed by dealers.

## 6.25 Definition of Personal Watercraft

MCL 281.1403(o); MSA 18.1287 (403)(o), defines personal watercraft as follows:

“‘Personal watercraft’ means a vessel that meets all of the following requirements:

- (i) Uses a motor-driven propeller or an internal combustion engine powering a water jet pump as its primary source of propulsion.
- (ii) Is designed without an open load carrying area that would retain water.
- (iii) Is designed to be operated by 1 or more persons positioned on, rather than within, the confines of the hull.”

## 6.26 Boating Safety Certificate Requirements

MCL 281.1421 to .1437; MSA 18.1287 (421) to (437) are the statutory sections dealing with boating safety education programs and boating safety certificate requirements.

They provide as follows:

\*See section 6.27, *infra* for a more detailed description of the age requirements of §.1431.

\*See Part E of this chapter for a copy of the DNR brochure described in §.1437.

- §.1421—A person who is required to complete a boating safety course must have safety certificate in his or her possession when operating a PWC.
- §.1423—The DNR shall establish a comprehensive educational program to advance boating safety for operation of PWC.
- §.1425—The DNR shall issue boating safety certificates to all persons who successfully complete a boating safety course as described in section 1423.
- §.1427—A person who is required to have a boating safety certificate shall display the certificate upon the demand of a peace officer.
- §.1429—The DNR may modify boating safety certificate requirements for persons engaged in marine events authorized by the DNR or the United States Coast Guard.
- §.1431—Persons between 12 and 14 years of age before January 1, 1999 must obtain boating safety certificates before operating a PWC.\*
- §.1433—As of the effective date of this act, boating safety certificate requirements do not apply to out-of-state residents. However, beginning March 23, 2000, all out-of-state residents (regardless of age) will be required to have boating safety certificates from Michigan or from their home state.
- §.1435—Dealers of PWC shall advise persons who purchase PWC of boating safety courses in the area. A dealer who violates this section is responsible for a state civil infraction and shall be ordered to pay a civil fine of \$100.
- §.1437—Dealers of PWC shall provide to purchasers of PWC a brochure from the DNR that summarizes the laws and safety features regarding PWC.\* A dealer who violates this section is responsible for a state civil infraction and shall be ordered to pay a civil fine of \$100.

MCL 281.1443; MSA 18.1287 (443) provides that the court shall waive any fines and costs upon receipt, not more than 10 days after the citation was issued, of proof that the person had a valid boating safety certificate (but did not have it in his or her possession) on the date the citation was issued.

## 6.27 Age Restrictions

MCL 281.1431; MSA 18.1287 (431), is the statutory section that establishes the age requirements for the use and operation of personal watercraft vessels. Because the statute is written in a somewhat confusing fashion, it is quoted in full as follows:

“(1) Except as provided in subsection (2), a person under the age of 14 shall not use a personal watercraft on the waters of this state.

(2) A person who is 12 or more and less than 14 years of age before January 1, 1999 may use a personal watercraft on the waters of this state if before January 1, 1999 he or she obtained a boating safety certificate.

(3) A person who was born after December 31, 1978 shall not operate a personal watercraft upon the waters of this state unless he or she first obtains a boating safety certificate.

(4) Not more than 5 years after this act takes effect, the graduated age provisions of this section shall be reviewed by the appropriate committee of both houses of the legislature to ascertain the effect, if any, these provisions have had upon the safe operation of personal watercraft upon the waters of this state.

(5) The owner of a personal watercraft or a person having charge over or control of a personal watercraft shall not authorize or knowingly permit the personal watercraft to be operated in violation of this section.

(6) This section does not apply to a performer engaged in a professional exhibition or a person preparing to participate or participating in a regatta, race, marine parade, tournament, or exhibition held in compliance with section 80164 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80164, under a permit issued by the department and at the time and place specified in the permit.”

**DNR Note:** Section 1431 actually pertains to two distinct subject areas concerning the operation of PWC. Subsection (1) prohibits a person less than 14 years of age from operating a personal watercraft. However, subsection (2) creates a small exception to subsection (1) by allowing 12 and 13 year olds to operate if they had obtained a boating safety certificate prior to January 1, 1999. This subsection is essentially a “grandfather clause” and will cease to operate on January 1, 2001.

Subsection (3) creates a graduated boating safety requirement by raising the age under which boating safety is required by one year, each year. Thus, in 1999, all persons 20 years of age or younger are required to have completed boater safety in order to operate a personal watercraft. In 2000, all persons 21 years of age or younger will have to meet this requirement. This system is analogous to the requirement for a hunter safety certificate that now results in about 50% of Michigan hunters having been required to complete hunter safety.

\*This statutory provision regarding out-of-state residents is currently under review and may be modified by future legislation.

MCL 281.1443; MSA 18.1287 (443) provides that the court shall waive any fines and costs upon receipt, not more than 10 days after the citation was issued, of proof that the person had a valid boating safety certificate (but did not have it in his or her possession) on the date the citation was issued.

MCL 281.1433; MSA 18.1287 (433), provides that as of the effective date of this act, boating safety certificate requirements do not apply to out-of-state residents. However, beginning March 23, 2000, all out-of-state residents (regardless of age) will be required to have boating safety certificates from Michigan or from their home state.\*

MCL 281.1411(4); MSA 18.1287 (411)(4), establishes restrictions on children under 7 years of age when they are on board or being towed behind a PWC. It states as follows:

“A person shall not operate a personal watercraft on the waters of this state if a child who is under 7 years of age is on board or being towed behind the personal watercraft unless the child is in the company of his or her parent or guardian or a designee of the parent or guardian.”

A person who violates §.1411(4) is guilty of a misdemeanor punishable by up to 90 days in jail and/or a fine of not more than \$100. *See* MCL 281.1439; MSA 18.1287 (439).

## 6.28 Equipment Requirements and Required Personal Flotation Devices

The requirements for PWC equipment and personal flotation devices is contained at MCL 281.1411(1) to (3) and (5); MSA 18.1287 (411)(1) to (3) and (5). These subsections state as follows:

“(1) Except as otherwise provided in this section, a person shall not operate a personal watercraft on the waters of this state unless each person 12 years of age or older riding on or being towed behind the personal watercraft is wearing a type I, type II, or type III personal flotation device as described in R 281.1234 of the Michigan administrative code.”

“(2) A person shall not operate a personal watercraft on the waters of this state unless each person on board or being towed by the personal watercraft who is less than 12 years of age is wearing a type I or type II personal flotation device as described in R 281.1234 of the Michigan administrative code.”

“(3) A person shall not operate a personal watercraft on the waters of this state unless each person on board the personal watercraft is wearing a personal flotation device that is not inflatable.”

“(5) While operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch on the waters of this state, a person shall have the lanyard attached to his or her person, clothing, or personal flotation device as is appropriate for the personal watercraft.”

**DNR Note:** In addition to the equipment requirements established by statute, PWC are subject to the requirements contained in R 281.1244 of the Michigan Administrative Code. Because they are deemed to be less than 16 feet in length and powered by an in-board engine, they must be equipped with the following: an approved backfire flame arrester, ventilation ducts, a muffler, and a fire extinguisher. They are not subject to the lighting requirements in the Rule because they may not be operated at night. See Part D for a quotation of R 281.1244.

## 6.29 Prohibited Hours of Operation

MCL 281.1411(6); MSA 18.1287(411)(6), states as follows:

“A person shall not operate a personal watercraft on the waters of this state during the period that begins 1 hour before sunset, and ends at 8 a.m. As used in this subsection, “sunset” means that time as determined by the national weather service.”

A person who violates §1411(6) is guilty of a misdemeanor punishable by up to 90 days in jail and/or a fine of not more than \$100. *See* MCL 281.1439; MSA 18.1287(439).

## 6.30 Operation of PWC in Prohibited Areas

MCL 281.1413(1) and (2); MSA 18.1287(413)(1) and (2), state as follows:

“(1) A person shall not operate a personal watercraft in the waters of this state outside of a channel or in an area where aquatic rooted vegetation is visible above the surface of the water in the deltaic wetlands of a lake that is greater than 32 square miles and less than 144 square miles in area.”

“(2) A person who violates subsection (1) is responsible for a state civil infraction punishable by a fine of \$25.”

**DNR Note:** The area described in section 1413 is the St. Clair Flats. The “Flats” are located at the point where the St. Clair River empties into Lake St. Clair. It is within the jurisdiction of St. Clair County for purposes of processing violations. The DNR has construed section 1413 as requiring that a PWC may only be operated in a channel within this area, and then only if there is no rooted, aquatic vegetation visible above the surface.

\* §.1403(q) defines slow—no wake speed to mean “the use of a vessel at a very slow speed so that the resulting wake in water is minimal.”

## 6.31 Operation of PWC at Greater Than No Wake Speed at Prohibited Locations

MCL 281.1419(1) to (4); MSA 18.1287(419)(1) to (4), is the principal statutory section dealing with the operation of PWC at a no wake speed.\* It states as follows:

“(1) Except when traveling at slow—no wake speed perpendicular to the shoreline, a person who operates a personal watercraft on 1 of the Great Lakes that is under the jurisdiction of this state shall maintain a distance of 200 feet from the shoreline.”

“(2) Except as provided in subsection (4), a person who operates a personal watercraft or a person who is being towed by a personal watercraft on a water sled, kite, surfboard, parachute, tube, water ski, or similar equipment on the waters of this state shall maintain a distance of not less than 100 feet from a dock, raft, or buoyed or occupied bathing or swimming area, a person in the water or on the water in a personal flotation device, or a vessel moored, anchored, drifting, or sitting in dead water.”

“(3) A person who operates a personal watercraft or a person who is being towed by a personal watercraft on a water sled, kite, surfboard, parachute, tube, water ski, or similar equipment on the waters of this state shall maintain a distance of not less than 200 feet from a submerged diver, vessel engaged in underwater diving activities, or a flotation device displaying the international diving insignia.”

“(4) Subsection (2) does not apply under either of the following conditions:

(a) The personal watercraft being operated or the person being towed is proceeding at a slow—no wake speed.

(b) The personal watercraft being operated or the person being towed is in a navigable channel, canal, river, or stream not otherwise posted.”

MCL 281.1411(7) and (8); MSA 18.1287(411)(7) and (8), establish two other situations when a PWC must be operated at a slow or no wake speed. Subsections (7) and (8) state as follows:

“(7) A person operating a personal watercraft on the waters of this state shall not cross within 150 feet behind another vessel, other than a personal watercraft, unless the person is operating the personal watercraft at a slow—no wake speed.”

“(8) A person shall not operate a personal watercraft on the waters of this state where the water depth is less than 2 feet, as determined by vertical measurement, unless 1 or both of the following circumstances exist:

(a) The personal watercraft is being operated at slow—no wake speed.

(b) The personal watercraft is being docked or launched.”

A person who violates section .1419 or section .1411(7) or (8) is guilty of a misdemeanor punishable by up to 90 days in jail and/or a fine of not less than \$100. *See* MCL 281.1439; MSA 18.1287(439).

## 6.32 Reckless Operation of PWC

MCL 281.1411(9) to (12); MSA 18.1287(411)(9) to (12), create the statutory offense of reckless operation of a PWC. Subsections (9) to (12) state as follows:

“(9) A person shall operate a personal watercraft in a reasonable and prudent manner. A maneuver that unreasonably or unnecessarily endangers life, limb, or property, including but not limited to all of the following, constitutes reckless operation of a personal watercraft under section 1417:

(a) Weaving through congested vessel traffic.

(b) Jumping the wake of another vessel unreasonably or unnecessarily close to the other vessel or when visibility around the other vessel is obstructed.

(c) Waiting until the last possible moment before swerving to avoid a collision.”

“(10) A person shall not operate a personal watercraft on the waters of this state carrying more persons than the personal watercraft is designed to carry.”

“(11) A violation of subsection (10) is prima facie evidence of reckless operation of a watercraft under section 1417.”

“(12) A person operating a personal watercraft in excess of the speeds established under part 801 of the natural resources and environmental protection act,\* 1994 PA 451, MCL 324.80101 to 324.80199, is guilty of reckless operation of a personal watercraft under section 1417.”

\*See section 6.14, *supra* for a discussion of the speed requirements in the Marine Safety Act.

MCL 281.1417(2) and (3); MSA 18.1287(417)(2) and (3), establish the penalties for reckless operation of PWC. They provide as follows:

- §.1417(2)—A person convicted as a first offender shall be guilty of a misdemeanor punishable by up to 90 days in jail and/or a fine of not more than \$100. In addition, the court may order the person not to operate a PWC in Michigan for not more than 2 years, and shall order the person to complete a boating safety course.
- §.1417(3)—A second conviction within 3 years is a misdemeanor punishable by up to 90 days in jail and/or a fine of not more than \$1,000. A third or subsequent conviction within 5 years is punishable by up to 90 days in jail and/or a fine of not more than \$2,000. In addition, the court may order the PWC impounded for up to 1 year if it is that person’s second or subsequent violation, and the PWC is owned by that person or by that person’s parents.



## Part D DNR Administrative Rules 281.1231 to 1252: Required Equipment on Marine Vessels

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Natural Resources

**All rules effective April 22, 1975**

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### **R 281.1231 Definitions.**

(1) “Act” means Act No. 303 of the Public Acts of 1967, as amended. ... Terms defined in the act have the same meanings when used in these rules.

(2) “Open boat” means a motorboat with all engine and fuel tank compartments and other spaces to which explosives or flammable gases and vapors from these

compartments may flow, open to the atmosphere and so arranged as to prevent the entrapment of gases and vapors within the vessel.

(3) “Point” means 11 1/4 degrees of the compass.

### **R 281.1232 Applicability.**

These rules apply to vessels and associated equipment used, to be used, or carried in vessels used on any waters within the territorial limits of this state including those waters of the Great Lakes which are under the jurisdiction of this state, except:

- (a) Foreign vessels temporarily using waters subject to state jurisdiction.
- (b) Military or public vessels of the United States, except recreational-type public vessels.
- (c) A vessel whose owner is a state or political subdivision thereof, other than this state and its political subdivisions, which is used principally for governmental purposes, and which is clearly identifiable as such.
- (d) A ship’s lifeboat.

### **R 281.1233 Navigation lights; intensity standards; placement; screening.**

(1) Navigation lights shall be of sufficient intensity so that the candlepower outside the lens is not less than that amount corresponding to the required distance of visibility as indicated in table 1.

Table 1

Distance of Visibility in Nautical Miles	Candlepower
1	1.0
2	5.5
3	17.6
5	100.0

(2) As an aid in complying with this rule, the standard double contact bayonet candelabra base lamps listed in table 2 are recommended for motorboats having 6- to 32-volt electrical systems.

Table 2

Distance of Visibility in Nautical Miles	Color	With Fresnel Lens			Without Fresnel Lens		
		6	12	32	6	12	32
1	Red	82	90	1,226	1,130	1,142	1,230
1	Green	88	94	1,228	-	-	-
2	White	64	68	1,224	82	90	1,226
3	White	82	90	1,226	1,130	1,142	1,230

(3) As an aid in complying with this rule, the incandescent lamps listed in table 3 are recommended for vessels having 115 volt electrical systems.

Table 3

Distance of Visibility in Nautical Miles	Color	Wattage	
		With Fresnel Lens	Without Fresnel Lens
1	Red	-	25
1	Green	25	50
2	White	-	15
2	Amber	-	25
2	Red	40	100
2	Green	75	200
3	White	-	25
3	Amber	25	75
5	White	40	100

(4) The light intensity standards of this rule shall apply to new navigation lights installed and replacements of existing lights made on and after January 1, 1973.

(5) Navigation lights required by these rules shall be placed high enough that their light will not be obstructed by persons or parts of the boat or its equipment and shall be screened as indicated in figure 1.

#### **R 281.1234 Personal flotation devices.**

(1) Personal flotation devices required by these rules to be carried aboard vessels shall be of the following types:

(a) Type I, an approved device designed to turn an unconscious person in the water from a face downward position to a vertical or slightly backward position, and to have more than 20 pounds of buoyancy.

(b) Type II, an approved device designed to turn an unconscious person in the water from a face down position to a vertical or slightly backward position and to have at least 15.5 pounds of buoyancy.

(c) Type III, an approved device designed to keep a conscious person in a vertical or slightly backward position and to have at least 15.5 pounds of buoyancy.

(d) Type IV, an approved device designed to be thrown to a person in the water and not worn. It is designed to have at least 16.5 pounds of buoyancy.

(2) Personal flotation devices required by these rules to be carried aboard vessels shall be:

(a) Approved by the United States coast guard.

(b) Legibly marked with the approval number issued by the United States coast guard.

(c) Of an appropriate size for the person for whom it is intended.

(d) Readily accessible and immediately available.

(e) In good and serviceable condition.

**R 281.1235 Fire extinguishing equipment.**

(1) All hand portable fire extinguishers, semiportable fire extinguishing systems and fixed fire extinguishing systems required by these rules shall be of a type approved by the United States coast guard.

(2) Hand portable fire extinguishers and semiportable fire extinguishing systems are classified by a combination letter and number symbol. The letter indicating the type of fire which the unit could be expected to extinguish, and the number indicating the relative size of the unit.

(3) For the purpose of these rules, all required hand portable fire extinguishers and semiportable fire extinguishing systems are of the “B” type; that is, suitable for extinguishing fires involving flammable liquids, greases, and so forth.

(4) The number designations for size start with “I” for the smallest to “III” for the largest. Sizes I and II are considered hand portable fire extinguishers and size III is considered a semiportable fire extinguishing system which shall be fitted with a suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered. Examples of size graduations for some of the typical hand portable fire extinguishers and semiportable fire extinguishing systems are as indicated in table 4.

Table 4

Classification Type	Size	Foam Gallons	Carbon Dioxide, Pounds	Dry Chemical Pounds
B	I	1 1/4	4	2
B	II	2 1/2	15	10
B	III	12	35	20

(5) All hand portable fire extinguishers and semiportable fire extinguishing systems shall have permanently attached thereto a metallic nameplate giving the name of the item, the rated capacity in gallons, quarts, or pounds, the name and address of the person or firm for whom approved, and the identifying mark of the actual manufacturer.

(6) Vaporizing liquid-type fire extinguishers containing carbon tetrachloride or chlorobromomethane or other toxic liquids are not acceptable as equipment required by these rules.

(7) Hand portable or semiportable extinguishers which are required on their nameplates to be protected from freezing shall not be located where freezing temperatures may be expected.

(8) A dry chemical, stored pressure, fire extinguisher not fitted with pressure gauge or indicating device, manufactured prior to January 1, 1965, may be carried on motorboats so long as it is maintained in good and serviceable condition. The following maintenance and inspections are required for such an extinguisher:

(a) When the date on the inspection record tag on the extinguisher shows that 6 months have elapsed since the last weight check ashore, the extinguisher is no longer accepted as meeting required maintenance conditions until reweighed ashore and found to be in a serviceable condition and within required weight conditions.

(b) If the weight of the container is 1/4 ounce less than that stamped on the container, it shall be serviced.

(c) If the outer seals, which indicate tampering or use when broken, are not intact, the officer shall inspect the extinguisher to see that the frangible disc in the neck of the container is intact; and if the disc is not intact, the container shall be serviced.

(d) If there is evidence of damage, use, or leakage, such as dry chemical powder observed in the nozzle or elsewhere on the extinguisher, the container shall be replaced and the extinguisher properly serviced or the extinguisher replaced with another approved extinguisher.

(9) A dry chemical, stored pressure, fire extinguisher without pressure gauge or indicating device manufactured after January 1, 1965, shall not be carried on motorboats as required equipment.

(10) When a fixed fire extinguishing system is installed, it shall be of a carbon dioxide-type approved and installed as required by the United States coast guard.

(11) The intent of these rules is illustrated in figure 2, where fire extinguishers are required if any of the specified conditions exist, and in figure 3, where specified conditions do not, in themselves, require that fire extinguishers be carried.

Fire extinguishers are required if any of the following conditions exist:

1. Closed compartment under thwarts and seats where portable fuel tanks may be stored.
2. Double bottoms not sealed to the hull or which are not completely filled with flotation material.
3. Closed living spaces.
4. Closed compartments in which combustible or flammable materials are stored.
5. Permanently installed fuel tanks.

The following conditions do not, in themselves, require that fire extinguishers be carried:

1. Bait wells.
2. Glove compartments.
3. Buoyant flotation material.
4. Open slatted flooring.
5. Ice chests.

#### **R 281.1236 Backfire flame control.**

(1) Every gasoline engine installed in a motorboat after April 25, 1940, except outboard motors, shall be equipped with an acceptable means of backfire flame control.

(2) Installations made before November 19, 1952, need not meet the detailed requirements of this rule and may be continued in use as long as they are

serviceable and in good condition. Replacements shall meet the applicable conditions in this rule.

(3) Installations consisting of backfire flame arresters bearing United States coast guard approval no. 162.015 may be continued in use as long as they are serviceable and in good condition. Replacements shall meet the applicable conditions of this rule.

(4) Installations consisting of engine air and fuel induction systems and given United States coast guard approval no. 162.015 may be continued in use as long as they are serviceable and in good condition. Replacements shall meet the applicable conditions of this rule.

(5) The following are acceptable means of backfire flame control for gasoline engines:

(a) A backfire flame arrester constructed in accordance with specifications of, and approved by, the United States coast guard. The flame arrester shall be suitably secured to the air intake with flame-tight connections.

(b) An engine air and fuel induction system which provides adequate protection from propagation of backfire flame to the atmosphere equivalent to that provided by an approved backfire flame arrester. A gasoline engine utilizing an air and fuel induction system, and operated without an approved backfire flame arrester shall have the installation tested and labeled in accordance with the specifications of, and approved by, the United States coast guard.

(c) Any attachment to the carburetor or location of the engine air induction system by means of which flames caused by engine backfire will be dispersed to the atmosphere outside the vessel in such a manner that the flames will not endanger the vessel, persons on board or nearby vessels and structures. All attachments shall be of metallic construction with flame-tight connections and firmly secured to withstand vibration, shock, and engine backfire. The installations do not require formal approval and labeling, but will be accepted by state and local law enforcement officers on the basis of compliance with this rule.

(d) Where manufacturers wish to produce vessels having an integrated engine-vessel design, a pre-market approval of an engine air induction system is available. An installation shall be tested and labeled in accordance with the specifications of, and approval by, the United States coast guard.

#### **R 281.1237 Ventilation.**

(1) All motorboats, except open boats, the construction or decking over of which is commenced after April 25, 1940, and which use fuel having a flash point of 110 degrees Fahrenheit or less, shall have at least 2 ventilator ducts, fitted with cowls or their equivalent, for the efficient removal of explosive or

flammable gases from the bilges of every engine and fuel tank compartment. There shall be at least 1 exhaust duct installed so as to extend from the open atmosphere to the lower portion of the bilge and at least 1 intake duct installed so as to extend to a point at least midway to the bilge or at least below the level of the carburetor intake. The cowls shall be located and trimmed for maximum effectiveness and in such a manner so as to prevent displaced fumes from being recirculated.

(2) Where alterations are needed for existing motorboats to comply with the requirements in this rule, the alterations shall be accomplished as soon as practicable and shall be completed by June 1, 1975.

#### **R 281.1238 Mufflers; cut outs.**

The exhaust of all internal combustion engines used on any waters of this state shall be muffled effectively by equipment so constructed and used as to muffle the noise of the exhaust of the engine in a reasonable manner. The use of cut outs, bypasses, or similar devices is prohibited, except for vessels competing in a boat race or regatta sanctioned by the department under sections 151 and 152 of the act. A modern device, underwater exhaust system or a system discharging cold water through the exhaust of an inboard engine, each of which is capable of muffling the noise of the exhaust of the engine in a reasonable manner, shall be considered as meeting the requirements of this rule.

#### **R 281.1239 Associated equipment carriage requirements.**

Associated equipment required by these rules to be carried aboard vessels are minimum and listed in R 281.1240 to R 281.1252 by type and length of vessel and by type of propulsion. A person shall not operate a vessel on waters of this state unless equipped in accordance with these rules.

### **OUTBOARD MOTORBOATS**

#### **R 281.1240 Less than 16 feet in length.**

An outboard motorboat less than 16 feet in length shall be equipped as follows:

- (a) If the motorboat is not an open boat, it shall be equipped with 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.
- (b) One type I, II, III, or IV coast guard-approved personal flotation device as specified in R 281.1234 in good and serviceable condition, for each person aboard. The devices shall be ready at hand and not encased in plastic bags or other type containers.
- (c) If the motorboat is constructed so that it has decking or compartments where explosive or flammable gases may be entrapped as illustrated in



figure 2, it shall be equipped with 1 BI-type coast guard approved fire extinguisher in good and serviceable condition and as specified in R 281.1235. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.

(d) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles and a combination 20 point bowlight forward, showing green to starboard and red to port, visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(e) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(f) All lights shall be as specified by R 281.1233.

(g) A muffler as specified by R 281.1238 for each motor.

**R 281.1241 Sixteen feet or over and less than 26 feet in length.**

An outboard motorboat 16 feet or over and less than 26 feet in length shall be equipped as follows:

(a) If the motorboat is not an open boat, it shall be equipped with 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.

(b) One type I, II, or III coast guard-approved person flotation device as specified in R 281.1234 in good and serviceable condition, for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other type containers.

(c) One hand, mouth, or power-operated whistle, capable of producing a blast of 2 seconds or more in duration, and audible for at least 1/2 mile.

(d) If the motorboat is constructed so that it has decking or compartments where explosive or flammable gases may be entrapped as illustrated in figure 2, it shall be equipped with 1 BI-type coast guard approved fire extinguisher in good and serviceable condition and as specified in R 281.1235. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.

(e) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles and a combination 20 point bowlight forward, showing green to starboard and red to port visible 1 mile

or in lieu of this requirement may display lights as specified by the international rules of the road.

(f) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(g) All lights shall be as specified by R 281.1233.

(h) A muffler as specified by R 281.1238 for each motor.

**R 281.1242 Twenty-six feet or over and less than 40 feet in length.**

An outboard motorboat 26 feet or over and less than 40 feet in length shall be equipped as follows:

(a) If the motorboat is not an open boat, it shall be equipped with 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.

(b) One type I, II, or III coast guard-approved personal flotation device as specified in R 281.1234 in good and serviceable condition, for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other type containers.

(c) An efficient fog bell which, when struck, produces a clear bell-like tone of full round characteristics.

(d) One hand or power-operated whistle, capable of producing a blast of 2 seconds or more duration and audible for a distance of at least 1 mile.

(e) If the motorboat is constructed so that it has decking or compartments where explosive or flammable gases may be entrapped as illustrated in figure 2, it shall be equipped with 2 BI-type coast guard approved hand portable fire extinguishers in good and serviceable condition and as specified in R 281.1235. One BII-type coast guard-approved fire extinguisher may be substituted for 2 BI types. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.

(f) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles, 1 white light forward showing 20 points and visible 2 miles, a green light to starboard showing 10 points and visible 1 mile and a red light to port showing 10 points and visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(g) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(h) All lights shall be as specified by R 281.1233.

(i) A muffler as specified by R 281.1238 for each motor.

**R 281.1243 Forty feet or over and not more than 65 feet in length.**

An outboard motorboat 40 feet or over and not more than 65 feet in length shall be equipped as follows:

(a) If the motorboat is not an open boat, it shall be equipped with 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.

(b) One type I, II, or III coast guard-approved personal flotation device as specified in R 281.1234 in good and serviceable condition, for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.

(c) An efficient fog bell which, when struck, produces a clear bell-like tone of full round characteristics.

(d) One power-operated whistle capable of producing a blast of 2 seconds or more duration, and audible for a distance of at least 1 mile.

(e) If the motorboat is constructed so that it has decking or compartments where explosive or flammable gases may be entrapped as illustrated in figure 2, it shall be equipped with 3 BI-type coast guard-approved hand portable fire extinguishers in good and serviceable condition and as specified in R 281.1235. One BII-type coast guard-approved fire extinguisher may be substituted for 2 BI types. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.

(f) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles, 1 white light forward showing 20 points and visible 2 miles, a green light to starboard showing 10 points and visible 1 mile and a red light to port showing 10 points and visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(g) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

- (h) All lights shall be as specified by R 281.1233.
- (i) A muffler as specified by R 281.1238 for each motor.

### **INBOARD AND INBOARD-OUTBOARD MOTORBOATS**

#### **R 281.1244 Less than 16 feet in length.**

An inboard or inboard-outboard motorboat less than 16 feet in length shall be equipped as follows:

- (a) One coast guard-approved backfire flame arrester as specified in R 281.1236 on each carburetor of all gasoline engines.
- (b) At least 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.
- (c) One type I, II, III, or IV coast guard-approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard. The devices shall be ready at hand and not encased in plastic bags or other containers.
- (d) One BI-type coast guard-approved hand portable fire extinguisher in good and serviceable condition and as specified in R 281.1235. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.
- (e) If underway between sunset and sunrise, the motorboat shall be equipped with and exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles and a combination 20 point bowlight forward, showing green to starboard and red to port visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.
- (f) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.
- (g) All lights shall be as specified by R 281.1233.
- (h) A muffler as specified by R 281.1238 for each motor.

#### **R 281.1245 Sixteen feet or over and less than 26 feet in length.**

An inboard or inboard-outboard motorboat 16 feet or over and less than 26 feet in length shall be equipped as follows:

- (a) One coast guard-approved backfire flame arrester as specified in R 281.1236 on each carburetor of all gasoline engines.
- (b) At least 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.
- (c) One type I, II, or III coast guard-approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.
- (d) One hand, mouth, or power-operated whistle, capable of producing a blast of 2 seconds or more duration, and audible for at least 1/2 mile.
- (e) One BI-type coast guard approved hand portable fire extinguisher in good and serviceable condition and as specified in R 281.1235. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.
- (f) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles and a combination 20 point bowlight forward showing green to starboard and red to port visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.
- (g) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.
- (h) All lights shall be as specified by R 281.1233.
- (i) A muffler as specified by R 281.1238 for each motor.

**R 281.1246 Twenty-six feet and over and less than 40 feet in length.**

An inboard or inboard-outboard motorboat 26 feet or over and less than 40 feet in length shall be equipped as follows:

- (a) One coast guard-approved backfire flame arrester as specified in R 281.1236 on each carburetor of all gasoline engines.
- (b) At least 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.
- (c) An efficient fog bell which, when struck, produces a clear, bell-like tone of full round characteristics.
- (d) One hand or power-operated whistle, capable of producing a blast of 2 seconds or more duration and audible for a distance of at least 1 mile.

(e) One type I, II, or III coast guard-approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.

(f) At least 2 BI-type coast guard-approved hand portable fire extinguishers in good and serviceable condition and as specified in R 281.1235, one BII-type coast guard-approved fire extinguisher may be substituted for 2 BI types. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.

(g) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles, 1 white light forward showing 20 points and visible 2 miles, a green light to starboard showing 10 points and visible 1 mile and a red light to port showing 10 points and visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(h) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(i) All lights shall be as specified by R 281.1233.

(j) A muffler as specified by R 281.1238 for each motor.

**R 281.1247 Forty feet and over and not more than 65 feet in length.**

An inboard or inboard-outboard motorboat 40 feet or over and not more than 65 feet in length shall be equipped as follows:

(a) One coast guard-approved backfire flame arrester as specified in R 281.1236 on each carburetor of all gasoline engines.

(b) At least 2 ducts fitted with cowls or their equivalent as specified in R 281.1237.

(c) An efficient fog bell which, when struck, produces a clear bell-like tone of full round characteristics.

(d) One power-operated whistle, capable of producing a blast of 2 seconds or more duration and audible a distance of at least 1 mile.

(e) One type I, II, or III coast guard-approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.

(f) At least 3 BI-type coast guard-approved hand portable fire extinguishers in good and serviceable condition and as specified in R 281.1235. One BII-type coast guard-approved fire extinguisher may be substituted for 2 BI types. When a fixed fire extinguishing system is installed in the machinery space, 1 less BI-type fire extinguisher is required.

(g) If underway between sunset and sunrise, the motorboat shall be equipped with an exhibit 1 white light aft higher than the bowlight showing all around the horizon and visible 2 miles, 1 white light forward showing 20 points and visible 2 miles, a green light to starboard 10 points and visible 1 mile and a red light to port showing 10 points and visible 1 mile or in lieu of this requirement may display lights as specified by the international rules of the road.

(h) If the motorboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the motorboat so as to be visible to a boat approaching from any direction.

(i) All lights shall be as specified by R 281.1233.

(j) A muffler as specified by R 281.1238 for each motor.

## **SAILBOATS AND OTHER TYPES OF BOATS**

### **R 281.1248 Sailboat without motor, less than 16 feet in length.**

A sailboat without a motor and less than 16 feet in length shall be equipped as follows:

(a) One type I, II, III, or IV coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard. The devices shall be ready at hand and not encased in plastic bags or other containers.

(b) If underway between sunset and sunrise, the sailboat shall be equipped with a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.

(c) If the sailboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the sailboat so as to be visible to a boat approaching from any direction.

**R 281.1249 Sailboat without motor, 16 feet or over in length.**

A sailboat without a motor and 16 feet or over in length shall be equipped as follows:

- (a) One type I, II, III, or IV coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard, plus 1 type IV throwable device. The devices shall be ready at hand and not encased in plastic bags or other containers.
- (b) If underway between sunset and sunrise, the sailboat shall be equipped with a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.
- (c) If the sailboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the sailboat so as to be visible to a boat approaching from any direction.

**R 281.1250 Sailboat with motor.**

A sailboat with a motor shall be equipped as follows:

- (a) Personal flotation devices, backfire flame arresters, ventilation ducts and cowls, fire extinguishers, whistles and bells and mufflers, as required by these rules for motorboats of the same length.
- (b) If underway between sunset and sunrise, the sailboat shall be equipped with and exhibit navigation lights as required by these rules for motorboats of the same length, except:
  - (i) A sailboat 26 feet or over in length under sail alone on the Great Lakes and waters connected thereto between sunset and sunrise shall be equipped with and exhibit a green light to starboard showing 10 points and visible 1 mile, a red light to port showing 10 points and visible 1 mile and a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.
  - (ii) If the sailboat is anchored between sunset and sunrise on the Great Lakes or waters connected thereto and not in a special anchorage area, a white light shall be displayed on the forward part of the sailboat so as to be visible to a boat approaching from any direction. In lieu of these lighting requirements sailboats may display lights as specified by the international rules of the road.



**R 281.1251 Rowboats.**

- (1) A rowboat shall be equipped with personal flotation devices as required by these rules for a motorboat of the same length.
- (2) If underway between sunset and sunrise a rowboat shall be equipped with a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.

**R 281.1252 Canoes and kayaks.**

- (1) A canoe or kayak shall be equipped with 1 type I, II, III, or IV coast guard approved personal flotation device as specified in R 281.1234 in good and serviceable condition for each person aboard. The devices shall be ready at hand and not encased in plastic bags or other type containers.
- (2) If underway between sunset and sunrise a canoe or kayak shall be equipped with a lantern showing a white light which shall be ready at hand and which shall be exhibited in sufficient time to prevent collision.

## **Part E Michigan Personal Watercraft Regulations,** reprinted with permission from the Michigan Department of Natural Resources

### **BOATING SAFETY**



This pamphlet is not intended to provide you with everything you may need to know as a personal watercraft operator. This is only a summary of the personal watercraft laws. Please contact the Michigan DNR or your local Sheriff Department for information concerning upcoming boating safety courses.

### **Registration Requirement**

- The owner of a personal watercraft shall file an application with the secretary of state for a registration number and decal.
- The registration must be carried and displayed upon a peace officer's request.
- If the personal watercraft is purchased from a dealer, a 15-day temporary permit may be issued.
- The permit shall not be renewed or extended.
- The owner of the personal watercraft shall permanently paint or attach the registration numbers in block letters on each side of the forward half of the vessel.
- The numbers must be as high above the waterline as practical.
- The registration decal is valid for a three-year period that begins on April 1 and expires March 31 of the third year.

### **Equipment Requirement**

- Each person on board the personal watercraft must wear a personal flotation device that is not an inflatable.
- Each person 12 years of age or older, riding or being towed, must wear a type I, type II or type III personal flotation device.
- Each person less than 12 years of age, riding or being towed, must wear a type I or type II personal flotation device.

- A lanyard-type engine cutoff switch must be attached to the person, clothing or personal flotation device. The manufacturer must equip the lanyard for the engine.
- Each personal watercraft must be equipped with one B1 type fire extinguisher.

### **Age Requirement**

- A person shall not operate a personal watercraft if a child under 7 years of age is on board or towed unless with a parent or guardian or designee of parent or guardian.
- A person under the age of 14 shall not operate a personal watercraft in this state.
- A person who is 12 but less than 14 may operate a personal watercraft if he or she obtained a boating safety certificate before January 1, 1999.
- Persons born after December 31, 1978 shall not operate a personal watercraft unless they obtain a boating safety certificate.
- The operators of a personal watercraft must carry their boating safety certificate and display it upon the demand of a peace officer.

### **Out of State Residence Requirement**

- Beginning March 31, 2000, persons who are not residents of this state shall only operate a personal watercraft if they possess one of the following:
  - A boating safety certificate.
  - A certificate from their state that is substantially similar to the education and training for Michigan.
  - A certificate from a course approved by the national association of state boating law administrators education

### **Prohibited Operation**

- A person shall not operate a personal watercraft during the period that begins 1 hour before sunset and ends at 8 a.m.
- A person operating a personal watercraft shall not cross within 150 feet behind another vessel, other than a personal watercraft, unless the personal watercraft is operating at a slow-no wake speed.

- A person shall not operate a personal watercraft where the water depth is less than 2 feet, unless 1 of the following exists:
  - The personal watercraft is being operated at a slow-no wake speed.
  - The personal watercraft is being docked or launched.
- A person shall not weave through congested vessel traffic while operating a personal watercraft.
- A person operating a personal watercraft shall not wait until the last possible moment to avoid a collision.
- A person shall not operate a personal watercraft while carrying more persons than the personal watercraft is designed to carry.
- A person operating a personal watercraft shall not disregard the rights or safety of others, nor operate a personal watercraft at a rate of speed or in a manner that endangers a person or property.
- Unless traveling at slow-no wake speed perpendicular to the shoreline, a person who operates a personal watercraft on one of the Great Lakes shall maintain a distance of 200 feet from the shoreline.
- Unless operating in a navigable channel, canal, river or stream, a person who operates a personal watercraft or a person that is being towed by a personal watercraft shall not operate within 100 feet of:
  - A dock or raft.
  - A buoyed or occupied bathing or swimming area.
  - A person in the water or on the water in a personal flotation device.
  - An anchored or moored vessel.
  - A vessel that is drifting or sitting dead in the water.
- A person who operates a personal watercraft or a person being towed by a personal watercraft shall not operate within 200 feet of:
  - A submerged diver.
  - A vessel engaged in underwater diving activities.
  - A flotation device displaying the international diving insignia.

### **Accidents**

A personal watercraft accident involving a vessel or its equipment must be reported as soon as possible to the nearest peace officer if any of the following conditions exist:

- There is a death or disappearance of a person

- A person is injured.
- There is property damage estimated at \$100 or more.

The law also requires that the operator help other persons affected by the accident, unless it puts his or her vessel and passengers in danger.

The operator of a personal watercraft that is involved in an accident must show his or her registration to any persons injured or to the owner of any damaged property. The operator must also give his or her name, address and vessel identification to the same persons.

### **Liability of Owner**

The owner of a personal watercraft is liable for any injury caused by a negligent operator. It shall be presumed that the personal watercraft is being operated with the knowledge and consent of the owner if it is driven by his or her son, daughter, spouse, father, mother, brother, sister or other immediate member of the owner's family.

### **Alcohol**

A person shall not operate a personal watercraft on the waters of this state if either of the following conditions exists:

- The person is under the influence of intoxicating liquor or a controlled substance, or both.
- The person has a blood alcohol content of 0.10% or more.

The owner of a personal watercraft, or a person in charge or in control of a personal watercraft, shall not knowingly allow the personal watercraft to be operated by a person if the following conditions exist:

- The person is under the influence of intoxicating liquor or a controlled substance, or both.
- The person has a blood alcohol content of 0.10% or more.

### **Reminder**

When the throttle is not engaged, the person operating the personal watercraft is unable to steer. Many accidents and collisions have occurred because the operator was not aware of this. Please refer to your owner's manual prior to

operating your personal watercraft. It is important to familiarize yourself with the operating characteristics of your personal watercraft before you begin.

### **Optional Equipment**

- Wet suit
- Gloves
- Foot protection
- Eye protection
- Whistle

### **Before You Go**

- Do you have enough gas for the entire trip?
- Ride with a friend.
- Tell someone where you are going and what time you plan to return.

### **Safety Tips**

- Always look behind you before you turn.
- Leave machine off until everyone is on board and away from the stern.
- Know the weather conditions before you go and act accordingly.
- Become familiar with the area in which you ride. Know where the hazards are.
- Match your riding style with your ability and conditions.
- Keep hands, feet, hair, clothing, etc. away from the pump intake.

### **Courtesy To Others**

- Use courtesy and common sense when sharing the waterways with other recreational users.
- Respect the peace and quiet of the residents on the water. Do not operate for long periods of time in the same area.
- Do not chase or harass the wildlife.